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February 8, 1989

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DIRECTOR OF HEALTH

Scope of Practice of Respiratory Care

Dear Dr. Wright:

You have asked whether specific tasks you list can be done by an individual who is not licensed as a respiratory care practitioner and who is not a family member or friend or who is licensed as a professional nurse, practical nurse or pharmacist. It depends, as discussed below.

According to Neb.Rev.Stat. §71-1,227(3) (Reissue 1986), respiratory care is:

1. Therapeutic and diagnostic use of medical gases administering apparatus, humidification and aerosols
2. Ventilatory assistance and ventilatory control
3. Postural drainage
4. Chest physiotherapy and breathing exercises
5. Respiratory rehabilitation
6. Cardial pulmonary resuscitation
7. Maintenance of nasal or oral endotracheal tubes
8. Administration of testing techniques including measurement of ventilatory volumes, pressures and flows; measurement of physiologic partial pressures; pulmonary function testing; and hemodynamic and other related physiological monitoring of the cardiopulmonary system
9. Administration of aerosol and inhalant medications to the cardiorespiratory system.

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Respiratory care can be practiced only under the direction of a medical director and upon the order of a licensed physician. Neb.Rev.Stat. §71-1,230. That physician must be one who has medical responsibility for the patient. Neb.Rev.Stat. §71-1,229. A medical director is a licensed physician designated by a health care facility or home care agency to monitor and assess the quality, safety and appropriateness of the respiratory care services being provided, to assure the competency of respiratory care practitioners and to require that respiratory care be ordered only by a physician who has medical responsibility for the patient. Id.

No person shall engage in the practice of respiratory care unless he or she is licensed for such purpose under the Uniform Licensing Law (Neb.Rev.Stat. §71-1,228) or comes within one of the exceptions in Neb.Rev.Stat. §71-1,235. Those exceptions include the gratuitous care of any other person by one who is not licensed to practice respiratory care if such person does not represent himself or herself as a respiratory care practitioner. Id. at (2). They also include respiratory care by nurses or other professionals licensed under the Uniform Licensing Law when such practice is within the scope of practice for which that person is licensed. Id. at (3).

The practice of nursing includes the execution of diagnostic or therapeutic regimens of duly licensed practitioners authorized to order such regimens. Neb.Rev.Stat. §71-1,132.05. Thus both a professional nurse and a practical nurse may provide care to carry out the order of a physician for respiratory care. A practical nurse may do so only under the direction of the physician or a registered nurse. Id.

The practice of pharmacy is defined in Neb.Rev.Stat. §71-1,142(1) (Supp. 1988). It includes the participation in drug administration. That administration is limited by definition to "giving a dosage unit of a drug to a patient." Id. at (2). A dose is a specified quantity of a therapeutic agent prescribed to be taken at one time or at stated intervals. A unit is a precisely specified quantity. See, American Heritage Dictionary of the English Language. Appropriately a unit dose system for administering drugs involves the administration of a single pre-measured dose of a prescribed drug. Thus a pharmacist could administer unit doses of aerosol and inhalant medications to the cardiorespiratory system. The other acts which constitute respiratory care appear to be outside of a pharmacist's scope of practice.

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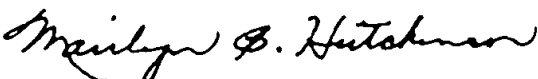
Four of the tasks you list involve providing the equipment necessary for the administration of oxygen therapy; they do not involve providing respiratory care with such equipment. Those tasks are: the setting up of the oxygen administration equipment, calibrating it, explaining how to operate the equipment and checking back on a regular basis to determine if the equipment is working properly. Such tasks may be done by persons who are neither licensed as respiratory care practitioners nor exempt from such licensure or by persons who are so licensed or exempt from such licensure.

The other tasks you list involve providing respiratory care with such equipment, that is, carrying out the physician's order. Those tasks are: checking that the prescribed level of oxygen is being provided, starting the equipment with it hooked up to the patient at the prescribed setting, explaining or instructing the patient or the family of the physiological hazards, assessing the patient's knowledge and understanding of the instructions, assessing the physical condition of the patient, and checking back on a regular basis to determine if the patient is responding appropriately. These tasks may be done by either licensed respiratory care practitioners or by persons exempt from such licensure. In both cases they must be done only upon the order of a licensed physician and under the direction of a medical director of a health care facility or home care agency providing respiratory care service.

In conclusion, only part of the tasks you listed are within the scope of practice for a respiratory care practitioner or persons exempt from such licensure. Those tasks and the limits on persons performing them are set out above.

Sincerely yours,

ROBERT M. SPIRE  
Attorney General



Marilyn B. Hutchinson  
Assistant Attorney General